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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,248	10/31/2003	Roderick J. MacWilliam	2060/82(b)	2508

23381 7590 09/09/2004

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EXAMINER

ENGLE, PATRICIA LYNN

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/699,248

**Applicant(s)**MACWILLIAM ET AL. **Examiner**

Patricia L Engle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 26-28 is/are rejected.
- 7) ☒ Claim(s) 21-25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 7-9, 11-16, 18, 26 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Duncan (US Patent 6,024,262).

Regarding claim 1, Duncan discloses an overhead console assembly (Fig. 1) for a vehicle (Fig. 4), the vehicle having a windshield with an upper portion (22) thereof extending substantially horizontally across the vehicle and a safety bar arrangement (25) with a portion thereof spaced rearwardly (Fig. 4) of the upper windshield portion (22) and extending substantially horizontally across the vehicle, said upper windshield portion (22) and said safety bar portion (25) being substantially at the same vertical level (Fig. 2), said overhead console

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assembly being respectively mounted (via 12 and 13, respectively) to the upper windshield portion (22) and to the safety bar portion (25) to extend therebetween along a first axis.

Regarding claim 2, Duncan discloses the apparatus of claim 1 wherein said upper windshield portion (22) extends along a second axis (Fig. 2) and said safety bar portion (25) extends along a third axis (Fig. 2), said second and third axes being substantially horizontal and further being spaced from each other and substantially parallel to each other (inherent to Fig. 2 and 4).

Regarding claim 3, Duncan discloses the apparatus of claim 2 wherein the first axis of said overhead console assembly (Fig. 1) is substantially perpendicular (Fig. 2) to said first and second axes.

Regarding claim 4, Duncan discloses the apparatus of claim 1 wherein said upper windshield portion (22) extends along a second axis (Fig. 2) and said safety bar portion (25) extends along a third axis (Fig. 2) and said overhead console assembly (10-13) has first (12) and second (13) end portions spaced from each other along the first axis (Fig. 1 and 2), said first end portion (12) being secured to the upper windshield portion (22) and said second end portion (13) being secured to said safety bar portion (25).

Regarding claim 7, Duncan discloses the apparatus of claim 4 wherein said first end portion (12) of the overhead console assembly is mounted to said upper windshield portion (22) for pivotal movement (via 21) relative thereto about a substantially horizontal axis (bolt/screw on 21 in Fig. 2).

Regarding claim 8, Duncan discloses the apparatus of claim 4 wherein the upper windshield portion (22) includes a rod member (22) and said first end portion (12) of said

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overhead console assembly is secured to said rod member (22) by a clamping arrangement (20 and 14).

Regarding claim 9, Duncan discloses the apparatus of claim 4 wherein said second end portion (13) of the overhead console assembly includes a rearwardly facing, open member (23) engaging said safety bar portion (25) and securable thereto (via 17).

Regarding claim 11, Duncan discloses the apparatus of claim 1 wherein said overhead console assembly has first (12) and second (13) end portions spaced from each other along the first axis (Fig. 2) and mounted for movement relative to each other (via 27) along said first axis between at least two positions (the front end of slot 27 and the rear end of slot 27) to selectively adjust the distance between said first (12) and second (13) end portions.

Regarding claim 12, Duncan discloses the apparatus of claim 1 wherein the length of said overhead console assembly along said first axis is adjustable (via 27).

Regarding claim 13, Duncan discloses the apparatus of claim 1 wherein the upper windshield portion (22) extends along a second substantially horizontal axis for a first distance and said overhead console assembly (10-13) has a width (distance between 10 and 11) in a direction substantially parallel to said second axis, said width being substantially less than said first distance (Fig. 4).

Regarding claim 14, Duncan discloses the apparatus claim 13 wherein the width (distance between 10 and 11) of said overhead console assembly is substantially uniform along said first axis (Fig. 1 and 4).

Regarding claim 15, Duncan discloses the apparatus of claim 1 wherein the vehicle further includes a top (column 3, lines 16) selectively positionable over the console assembly (10-

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13) and extending at least between and over parts of the upper windshield portion (22) and safety bar portion (25).

Regarding claim 16, Duncan discloses the apparatus of claim 15 wherein said top is releasably securable to the upper windshield portion (inherent to a HMMWV).

Regarding claim 18, Duncan discloses the apparatus vehicle top is a soft top of claim 15 wherein the made of flexible material (inherent).

Regarding claim 26, Duncan discloses the apparatus of claim 1 wherein said overhead console assembly includes at least one instrument (35).

Regarding claim 27, Duncan discloses the apparatus of claim 26 wherein said instrument includes at least one from the group of a speaker, light (the screen has lights), and electric power point (the screen is an electric point).

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 5, 6 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duncan in view of Canni et al. (US Patent 6,338,517).

Duncan discloses the apparatus of claims 1-4, 7-9, 11-16, 18, 26 and 27.

Duncan does not disclose that the console is secured to the upper windshield portion and the safety bar portion substantially midway across the upper windshield portion and the safety bar (claims 5 and 6)

Canni et al. disclose a console is placed midway along the windshield upper portion and that the console includes a storage compartment.

Canni et al. and Duncan are analogous art because they are from the same field of endeavor, i.e., consoles for vehicles.

It would have been obvious to one of ordinary skill in the art at the time of the invention to place the console at the midway point of the windshield upper member and the safety bar and to include at least one storage compartment.

The motivation would have been to convert the vehicle with apparatus from a military vehicle to a civilian vehicle and allow the vehicle to have the luxuries of other vehicles even though it is convertible.

Therefore it would have been obvious to combine Canni et al. with Duncan to obtain the invention as specified in claims 5, 6 and 28.

7. Claims 10, 17, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duncan.

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Regarding claim 10, Duncan does not disclose a strap extending about the safety bar to secure the console. It would have been obvious to one of ordinary skill in the art to include a strap to secure the console to the safety bar. The motivation would have been to be able to secure the console to a safety bar of any shape.

Regarding claims 17 and 19, Duncan does not disclose the specific mounting methods of the soft top. The Examiner takes Official Notice that latching the soft top to the upper windshield portion is well known in the art. Therefore it would have been obvious to one of ordinary skill in the art to mount the soft top to the upper windshield portion with a latch. The motivation would have been to securely mount the soft top to the vehicle. The Examiner also takes Official Notice that it is well known to use a strap to mount a soft top to the upper portion of the windshield and the safety bar. It would have been obvious to one of ordinary skill in the art to mount a soft top in this manner and to use element 24 in Fig. 4 as a guide element for the strap. The motivation for using the element 24 as a guide element would have been to prevent the strap from flapping around and hitting the passengers of the vehicle.

Regarding claim 20, the Examiner take Official Notice that it is well known to use a hard top in place of a soft top. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use a hard top. The motivation would have been to use a top that can withstand the winter weather with ease.

***Allowable Subject Matter***

8. Claims 21-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.



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*Conclusion*

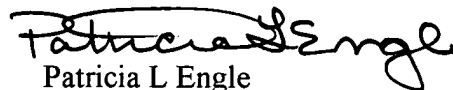
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art discloses other overhead consoles for vehicles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L Engle whose telephone number is (703) 306-5777.

The examiner can normally be reached on Monday - Friday from 8:00 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patricia L Engle  
Examiner  
Art Unit 3612

ple  
September 2, 2004